FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 05/04/2017

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. **A/70317/2017-SM[BR]** dated **30/03/2017**

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section **35-C(1)** of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
1	E/372/2011	**INDIA GLYCOLS LTD.,** A-1, INDUSTRIAL AREA, BAZPUR ROAD, KASHIPUR, DISTT. UDHAM SINGH NAGAR (UTTRAKHAND)
		Name and Address of Respondent
2		-C.C.E. MEERUT II Opp. Saheed Park (Near Ashok ki Lat) Delhi Road, Meerut (UP)

Copy To

3Advocate(s) / Consultant(s):

S. C. Kamra & Co.
B-2/210 (Basement)
Safdarjung Enclave,
New Delhi
110029

4 Bar Association, CESTAT, Allahabad

5 Director Publications, Customs, Excise. I.P. Estate, Delhi

6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3

7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17

8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005

9 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070

11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38

12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032

14 C.D.R. 15 Office Copy ~~16~~ Guard File

Asstt. Registrar

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH : ALLAHABAD

Single Member Bench

Appeal No. E/372/2011-EX(SM)

[Arising out of Order-in-Original No. 10/Commissioner/M-II/2010 dated 25/10/2010 passed by Commissioner, Customs, Central Excise & Service Tax, Meerut-II]

India Glycols Ltd. Appellant

Vs.

CCE, Meerut -II Respondent

Appearance:
Present for the Appellant: Shri S.C. Kamra, and Shri Kartikeya Narain, Advocate
Present for the Respondent: Shri Sandeep Kumar Singh (Joint Commissioner) (AR)

Coram: Hon'ble Shri Anil Choudhary, Judicial Member

Date of Hearing/Decision: 30.3.2017

FINAL ORDER NO. 70317/2017

Per: Anil Choudhary

The brief facts of the case are that the appellants are engaged in the manufacture of liquid oxygen, liquid Nitrogen and Liquid Argon. They filed the application before the jurisdictional Central Excise Authorities for remission of duty of Rs.15,46,460/- for the gases lost/evaporated during the period from January, 2006 to July, 2007 under Rule 21 of the Central Excise Rules, 2002. By the impugned order, the Commissioner of Central Excise rejected the remission application.

2. Heard both sides and perused the records.

3. The appellant contended that the finished goods are of volatile nature. There are some evaporation losses, which were shown in the Central Excise Returns/records. It is contended that the losses are to be on account of natural causes beyond their control. It is revealed from the impugned order that the adjudicating authority proceeded on the basis of the report of the Assistant Commissioner of Central Excise and Meerut Commissionerate Trade Notice No.206/1984 dated 01.12.1984. The report says that natural loss means a loss, for which no preventive measures can be taken, while in the present case, the appellant could have prevented the evaporation loss by providing coils inside the tank to circulate a cooler fluid in order to keep the tanks temperature under control.

4. I find that there is no dispute on the evaporation loss upon which remission of duty was claimed. The CBEC vide Circular No.246/80/96-CX dated 01.10.1996 clarified that gasses falling under chapter 28 and 29 produced in a factory and allowed to escape in the atmosphere are not liable to duty. On the basis of the said Circular, the Tribunal allowed the remission application on identical situation as under:-

1. CCE, Belapur vs. Deepak Fertilizers & Petro Corporation Ltd. 2009 (243) ELT 408 (Tri. Mum.)
2. Jindal Praxair Oxygen Co. Pvt. Ltd. vs. C.C.E., Belgium 2007 (219) ELT 122 (Tri.- Bang.)
3. CCE vs. B.O.C. India Ltd 2007 (213) ELT 647 (Del.)

5. In view of the above discussions, I do not find any reason to reject the application for remission of duty filed by the appellant. Accordingly, the impugned order is set aside. The appeal filed by the appellant is allowed.

(Dictated and pronounced in the Open Court)

-Sd/-
(ANIL CHOUDHARY)
Member (JUDICIAL)

(K. Gupta)

प्रमाणित प्रति / Certified True Copy
24/04/2017
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर
अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001